

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL KANE, et al.,

Plaintiffs,

- against -

: Case No. 21-cv-7863 (VEC) (Lead)

DE BLASIO et al.,

Defendants.

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MATTHEW KEIL, et al.

Plaintiffs,

- against -

: Case No. 21-cv-7863 (VEC)

THE CITY OF NEW YORK et al.,

Defendants.

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DECLARATION OF SOLIMAR VELEZ

Solimar Velez declares as follows, pursuant to 28 U.S.C. § 1746:

1. My name is Solimar Velez and I have been an employee with the New York City Department of Education (“DOE”) for the past seven years.
2. I respectfully submit this Declaration in support of Plaintiffs’ Motion for a Preliminary Injunction.
3. I know the facts stated herein to be true based upon my personal knowledge, except for statements which are made on information and belief and, as to those, I verily believe them.

4. I worked for the DOE as a teacher for five years and as an instructional coach for two years. For the past two years, I have been training to become an assistant principal.
5. In my position this year, I came into contact with administrators and colleagues on a daily basis. I only came into contact with a small group of children for one period a day.
6. I possess sincere religious objections to the COVID-19 vaccines that prevent me from getting vaccinated.
7. On September 17, 2021, I submitted my initial request for a religious exemption to the DOE.
8. A true and correct copy of my submission is attached as Exhibit A.
9. On September 19, 2021, the DOE denied my initial application.
10. A true and correct copy of that denial is attached as Exhibit B.
11. I appealed my denial on the same day.
12. A true and correct copy of my arbitration appeal documentation and accompanying emails are attached as Exhibit C.
13. On September 22, 2021, I attended an arbitration hearing.
14. During my arbitration hearing, I emotionally and sincerely affirmed that any vaccination is in conflict with my deeply held religious beliefs, and that my objections to vaccinations are not based solely on grounds of personal philosophy or inconvenience or because I fear any side effects. I explained that I believe that God created me with an immune system and that I cannot alter his design. I explained that

as a Christian and a member of the body of Christ, my sincerely held religious beliefs are an all-encompassing aspect of my life.

15. I shared Corinthians 6:19 which states that my body is a temple of the holy Spirit, that I do not belong to myself, and that I must glorify God with my body. I explained that my sincerely held religious beliefs do not allow me to have a biological substance injected into my body, that my blood is sacred, and that—according to my religious beliefs—the life is found in the blood. I stated that my own salvation was bought and paid for by the blood of Jesus Christ and that I cannot taint my own blood with vaccines. I also stated that I believe in Jesus Christ’s healing hand.
16. After I made this comprehensive statement, the arbitrator acknowledged, “[t]here’s no doubt that you are a devout believer,” but then proceeded to have the following exchange with me:

Arbitrator: “Could you tell me in simple terms, what is your fear about the vaccine?”

Solimar Velez: “I don’t fear the vaccine. It’s not about the fear. . .”

Arbitrator: “Alright so then, I’m going to play it straight down the middle. Are you ready to get vaccinated?”

Solimar Velez: “If I get vaccinated, it will . . . condemn me. It will condemn my soul.”

Arbitrator: “On what basis?”

. . .

Arbitrator: “I just want to know what the fear of the vaccine is. You’re making a religious claim. . . You must have thought about this. What prevents you from taking the vaccine?”

Solimar Velez: "My religious belief."

17. It was as if the arbitrator had not listened to my full explanation about why the vaccine conflicts with my sincerely held religious beliefs.
18. The arbitrator also asked me "Do you intellectually understand that the vaccine . . . prevent[s] disease or you spreading a disease?" and questioned whether I was ever vaccinated before.
19. I explained that my parents vaccinated me when I was very young and that prior to accepting the Lord Jesus Christ as my Savior, I was vaccinated. I stated that at the time, I did not know I was tainting my body, but that I have repented for those sins.
20. On September 25, 2021, the arbitrator denied my appeal in a document dated September 22, 2021.
21. The denial stated "I find the lack of vaccinations represents a serious health risk to both staff and students. . . . Specifically with respect to Covid 19 vaccines, neither Pfizer nor Moderna used abortion derived cell line [sic] in the production or manufacture of the vaccine and they are not inside the injection people receive."
22. I did not refer to aborted fetal cells in my personal statement or in my arbitration hearing.
23. A true and correct copy of the denial is attached as Exhibit D.
24. On November 30, 2021, I appealed the arbitrator's denial with the Citywide Appeals Panel.
25. A true and correct copy of my Citywide Appeals Panel documentation is attached as Exhibit E.

26. On January 7, 2022, the Citywide Appeals Panel requested supplemental information, which I provided.
27. The request for additional information is attached as Exhibit F.
28. A true and correct copy of the supplemental information I provided is attached as Exhibit G.
29. The Citywide Appeals Panel never invited me to participate in a hearing on my appeal.
30. The Citywide Appeals Panel denied my appeal on February 15, 2022, stating that it “decided to deny [my] appeal,” that “[t]his determination represents the final decision with respect to [my] reasonable accommodation request,” and that the decision classification was that, “DOE has demonstrated that it would be an undue hardship to grant this accommodation to appellant given the need for a safe environment for in-person learning.”
31. A true and correct copy of this notice is attached as Exhibit H.
32. On February 19, 2022, I emailed the Panel Appeal Update email address, the Vax Appeal Decisions email address, the DOE’s Division of Human Resources, and Chancellor David Banks requesting a summary of how the decision on my religious exemption request was made, as well as the names of the members of the Citywide Appeals Panel who made the decision.
33. A true and correct copy of this email is attached as Exhibit I.
34. I never heard back to this email.

35. The Citywide Appeals Panel never provided me with a more detailed response regarding the denial of my religious exemption request, as the named Plaintiffs in this case received.
36. The DOE terminated me on March 17, 2022.
37. A true and correct copy of my termination letter is attached as Exhibit J.
38. Upon information and belief other classroom teachers have been accommodated, some even under the unconstitutional criteria that the Second Circuit struck down as discriminatory and unlawful.
39. The DOE has never explained why I would be a direct threat to others based on my vaccine status.
40. In early November 2021, I applied for unemployment with the New York Department of Labor.
41. I received two different denials from the New York Department of Labor.
42. The first one, dated January 10, 2022 and a true and correct copy of which is attached as Exhibit K, stated that I was denied unemployment because I was terminated for quitting without good cause.
43. A more thorough explanation by Administrative Law Judge Susanna Iafrate, contained within Exhibit L, a true and correct copy of which is attached, stated,

I find that the COVID-19 vaccination policy is justified by a compelling governmental interest. Given the severity of the ongoing COVID-19 health crisis and the need to protect the employees and children placed in the care of the employer, I find there was a compelling governmental interest justifying the vaccine mandate. As a result, I find the employer's directive was reasonable and the claimant's refusal to comply with the vaccine mandate was

tantamount to quitting her job without good cause under the Labor Law

44. Judge Iafrate stated in Exhibit L that I applied for a religious exemption on October 4, 2021, and that I was denied on October 15, 2021, but I applied for a religious exemption on September 17, 2021 and was denied on September 19, 2021. On October 4, 2021, I was no longer allowed in my DOE building, and on October 15, 2021 I received my last paycheck.
45. The second denial, dated February 2, 2022 and a true and correct copy of which is attached as Exhibit M, stated that I was denied unemployment because I had been discharged for misconduct.
46. I appealed these denials and wrote a letter to Judge Iafrate explaining that the statements that I had “quit” and that I had been “discharged” for “misconduct” were both false, as I had been on involuntary unpaid leave since October 4, 2021, and the Citywide Appeals Panel denied my religious exemption request because of undue hardship, not because of misconduct.
47. A true and correct copy of this letter is attached as Exhibit N.
48. On March 3, 2022, I attended a hearing for my appeal of my denial of unemployment compensation with Judge Iafrate.
49. I told Judge Iafrate that I wanted to read Scriptures supporting my religious beliefs. Before she allowed me to do that, she asked me, “what religion is this?” to which I replied, “Christian, non-denominational.” She then asked if I had ever been vaccinated, and I explained that my parents had me vaccinated when I was a child. She replied,

"[y]our parents. Are they the same religion as you?" I responded that they were not, and that I had become a Christian on July 18, 2021.

50. We then had the following exchange:

Judge Iafrate: And do you have these like, Scriptures you want to read from?

Solimar Velez (Ms. Velez): Sure, I have—

Judge Iafrate: Oh no no, what I'm asking you, do you have them? Where are they from?

Where are these Scriptures coming from?

Ms. Velez: The Holy Bible, Your Honor.

Judge Iafrate: And. . . so as a Christian non-denominational. Is that the name of the religion?

Ms. Velez: Yes, Christianity, and then the denomination is non-denominational.

Judge Iafrate: Non-denominational. Other than um, so this is your interpretation of the Bible, is that what you're telling me?

Ms. Velez: These are Scriptures I live by, Your Honor.

Judge Iafrate: And has a religious official spoken about the vaccine?

Ms. Velez: I believe that the, I heard that the priest from Catholicism, the pope, he was . . . for that.

Judge Iafrate: He was for the vaccination?

Ms. Velez: Yes, the Catholic pope.

Judge Iafrate: Okay, and you don't believe in the Catholic pope?

Ms. Velez: No.

Judge Iafrate: And explain how this religion prevents you from vaccinating?

Ms. Velez: Your Honor, in Genesis 1:27, it says that God created mankind in His own image. In Peter 2:1, 3 . . .

Judge Iafrate: Wait a minute, God . . . I'm sorry, God—

Ms. Velez: Created mankind in His own image.

Judge Iafrate: And how does that relate to not getting vaccinated?

Ms. Velez: It means that God already created us in all His divinity. He created us with an immune system. He created us with faith, so that we have just the pure faith in Him, and that He can protect us. It means that our bodies don't belong to us. They belong to God.

Judge Iafrate: Wait, does it say that? Or does it say God created mankind in His own image?

Ms. Velez: Genesis 1:27, God created mankind in His own image.

Judge Iafrate: Okay. And what other verses are you citing?

Ms. Velez: 1 Corinthians 6:19-20.

Judge Iafrate: And what does that one say?

Ms. Velez: Don't you realize your body is a temple of the Holy Spirit, who lives in you, and who has given you strength by God? You do not belong to yourself for God bought you with a high price, so you must honor God with your body.

Judge Iafrate: How come you didn't send me these Scriptures?

Ms. Velez: I honestly did not know that this was going to question my faith.

Judge Iafrate: Well this is why you didn't get the vaccine, right?

Ms. Velez: Yes. . . . I can send you the two 10-page letters that I wrote for my appeal.

Judge Iafrate: I don't need the letters that you wrote for your appeal. Are the Scriptures in there?

Ms. Velez: Yes.

Judge Iafrate: Where are they?

Ms. Velez: That I didn't send you. Those are the letters that I gave to the City of New York for the Citywide Appeal. That I did not send.

Judge Iafrate: You didn't send it to me?

Ms. Velez: No Your Honor. I didn't send it to anybody. I didn't think that . . . this [would] be another appeal for a religious exemption.

Judge Iafrate: Well I'm deciding if you get your unemployment benefits, so. . . .

51. We also had the following exchange:

Judge Iafrate: Do you take any medication?

Ms. Velez: No. No medication.

Judge Iafrate: For anything?

Ms. Velez: For anything, no.

Judge Iafrate: Not an Aspirin? You've never taken anything? Never taken an antibiotic for sickness?

Ms. Velez: Honestly, I haven't gotten sick since July. . . . A long time ago when I was a child my mother took me to the doctor. Now I haven't gotten to the doctor.

Judge Iafrate: You haven't taken any medications at all?

Ms. Velez: No, Your Honor. God is good; I've been healthy.

Judge Iafrate: When is the last time you took a medication, anything? An Aspirin?

Ms. Velez: I can't remember Your Honor.

Judge Iafrate: An antibiotic?

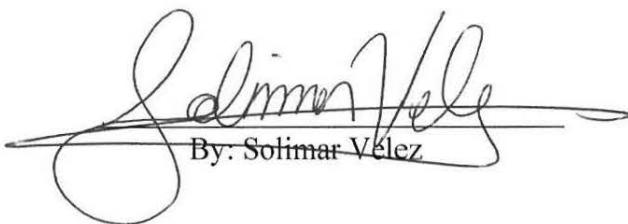
Ms. Velez: No.

52. Throughout the hearing, Judge Iafrate sounded irritated with me, and kept heaving exasperated sighs while I was reading my Scriptures. I felt like I was being bullied.
53. I know of other DOE teachers who were terminated for failing to be vaccinated in violation of their sincerely held religious beliefs who were granted unemployment from other administrative law judges.
54. The DOE Self-Service Online Leave Application System still gives me the option to either "Return to Work" or "Resign."
55. A true and correct copy of a screen shot from my SOLAS account indicating this is attached as Exhibit O.
56. Upon information and belief, this indicates that I could be reinstated if I chose to violate my sincerely held religious beliefs and get vaccinated.
57. I am a first-generation daughter of immigrants and I have dedicated my entire career to teaching children in the Bronx, my home borough. Before these mandates, I was months away from being promoted to assistant principal at my school and I had just obtained my second master's degree. I have never been subject to discipline in my job of any kind.
58. Due to the DOE's vaccination mandate, I am now suffering physically, emotionally, and financially. It is nearly impossible to get another teaching job in New York City without being vaccinated.

59. I have been unable to sleep for the past six months and I live with constant anxiety, depression, and feelings of failure. Many people count on me and I feel like I am letting them down.
60. My brother's wife and child were depending on me to sponsor them so that they can immigrate here from Mexico, and I can no longer afford to do so. As a result, they have been unable to move to the United States.
61. I was previously paying for the mortgage on my father's house and can no longer afford to do that either. I fear that we will lose the house.
62. I was forced to go on SNAP benefits and obtain assistance from church pantries so I can eat.
63. I am struggling to pay for my student loan, and I also am unable to pay for other basic needs and essentials such as my cell phone bill, Internet, utilities, and water.
64. I may be forced to move to Florida which devastates me, as I was born and raised in the Bronx and my family lives here.
65. I face ongoing coercion and distress, knowing that I could be reinstated if I simply got vaccinated in violation of my sincerely held religious beliefs.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
April 6, 2022



A handwritten signature in black ink, appearing to read "Solimar Velez", is written over a horizontal line. Below the signature, the name "By: Solimar Velez" is printed in a smaller, sans-serif font.